

Electronic Mail sent by Greg Cohen [GregCohen@highways.org] to
Horst_Greczmiel@ceq.eop.gov on 11/17/2003

Dear Mr. Greczmiel,

These are my comments on behalf of the American Highway Users Alliance.

I hope they are helpful. Please contact me if I can be of any help to
CEQ as you consider next steps.

Thanks,
Greg Cohen

Attachment to the electronic mail:

On behalf of the American Highway Users Alliance, I wish to congratulate you on
publication of "Modernizing NEPA Implementation" and offer comments on the product.

Overall, we are impressed with the task force's effort to address problems with the
current NEPA process – problems that we concur exist. We would like to see a more
efficient process that does not substantively alter the environmental protections found in
current law. However, we are greatly interested in process reforms that will help
agencies reach decisions faster, in a cooperative rather than combative atmosphere.

Our organization is interested specifically in highway projects and changing what we
perceive to be a hostile view of highways from some cooperative agency staff. It is our
view that over much of the past 10 years, the Federal Highway Administration has not
been an effective advocate for highways and the value a safe and efficient road system
provides to society. However, resource agencies have been extremely effective,
sometimes overly zealous stewards of their agency's missions. On projects in which the
Federal Highway Administration is the lead agency, their ineffectiveness has emboldened
cooperating agencies to delay road and bridge projects that are of high priority to the
States. Fortunately, in the past few years the FHWA has reasserted itself as an advocate
for a safe and efficient national highway system.

At the heart of the issue is the problem of "trust", which we're pleased to see you have
begun to address in the task force document. This is a complex problem and difficult to
change through laws or regulations – however, we encourage you to try to use regulations
to set ground rules for the various agencies that clarify expectations and timelines for
project delivery and clarify the "cooperative" roles which all agency staff should be
adhering to. Our anecdotal experiences have confirmed to us that individuals within an
agency have great power to determine the nature of the interagency relationship. For
example, in State A, the State Department of Transportation works well with EPA and
the Corps of Engineers but has terrible problems obtaining cooperation from an
individual US Fish and Wildlife Service employee who happens to hate highways. The
State is afraid to complain because of a fear of retaliation from that employee on another
project. In State B, everything is fine with US Fish and Wildlife service but the Corps
won't permit any alternative it doesn't suggest, even if the project sponsors have

determined that the Corps-preferred alternative is unreasonable and not supported by elected officials.

Another major overarching confusion seems to be the overall intent of NEPA. To some, NEPA's rightful purpose seems to be to delay and obstruct project decisionmaking. This is encouraged by some who seem to want no change to the "analysis/paralysis" paradigm. However, this has never been the Congressional intent of the law. We urge CEQ to clarify that NEPA is intended to provide better understanding of the consequences of Federal actions – but not to halt or delay such actions.

Finally, we'd like to address a broad concern about the current public involvement processes. Most importantly, we believe that while the "public hearing" format allows project decisionmakers to hear public concerns about the project, it is not an appropriate tool for determining a representative public opinion about a highway project. These hearings will always bring out the "NIMBYs" who oppose projects. But in many cases, polling data and election results show overwhelming support

We hope any final action of legal standing from the CEQ addresses our major concerns discussed above. We support the recommendations of the CEQ but would like to offer a few cautionary notes:

- We support the increased use of information technology but agree with the concerns described in Section 1.7 about information overload and misuse of technical modeling by the public.
- We are concerned with formally inviting local agencies to participate as cooperating agencies as described in Section 2.1.1. When it comes to a major highway project that enter several counties or municipalities, the number of cooperating agencies can become unmanageable. This is particularly in the case of areas such as New Jersey, where many townships can exist in a small area. Local governments should not be extended veto power of State or Federal transportation actions.
- We strongly support stronger guidance or regulation to clarify the differences between EA/FONSI and EIS's. In many cases, the schedules and extent of EA/FONSI documentation is no different from EIS documentation.